

The Examiner contends that:

The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the common technical feature among the inventions is the liquid cosmetic composition, does not involve an inventive step when considered in light of Andon et al. (U.S. Patent No. 6,153,206 . . .) and Morrissey et al. (U.S. Patent No. 6,106, 820. . .).

*Id.* The Examiner concludes that “in light of the prior art, the instantly claimed invention does not involve an inventive step and the Groups do not share a common special technical feature and are subject to restriction.” *Id.* at 3. Applicants respectfully disagree with the Office’s analysis of the cited references and the conclusion that either Andon et al. or Morrissey et al. render the present invention obvious. Applicants reserve any further response until the issuance of an official action directed towards Andon et al., Morrissey et al., and the elected subject matter.

Applicants assert that the special technical feature of the present invention does not equate to the cosmetic composition recited in Andon et al. (i.e., an **uncrosslinked** synthetic polymer comprising a first repeat unit consisting of methacrylate ester monomers and a second repeat unit consisting of methacrylate ester monomers). In addition, both Andon et al. and Morrissey et al. are silent about the mean gloss of the disclosed composition. Accordingly, Applicants submit that the Examiner’s assertion that the present invention lacks an inventive step over the cited references is in error. Accordingly, Applicants submit that the Examiner’s restriction requirement is improper and should be withdrawn.

The Examiner also requires election of species for Group I, as presented at pages 3-5 of the Office Action. Specifically, the Examiner identified that “[t]he following claims are generic for Group I: 80-90, 93, 96, 97, 99-101, 104-107, 109-114, 116-119, 122-125, 127-132, and 136-165.” *Id.* at 4. The Examiner thus further requires election of a single monomer structure with defined R', R<sub>1</sub>, R<sub>2</sub>, R<sub>3</sub>, R<sub>4</sub>, R<sub>7</sub>, and R<sub>8</sub> groups (and R<sub>5</sub> and R<sub>6</sub> groups, if any). *See id.*

The election of species requirement is respectfully traversed. However, to be fully responsive, Applicants provisionally elect, with traverse: **acrylic acid/isobutyl acrylate/isobornyl acrylate copolymer** as the copolymer.<sup>1</sup> In other words, R<sub>2</sub> is isobornyl, and R<sub>3</sub> is isobutyl. Acrylic acid is elected for the additional monomer as recited in claim 130.

Applicants submit that claims 80-95, 97-112, and 114-161 read on the elected species.

In addition, as with the restriction requirement discussed above, the Examiner merely asserted that “the species lack the same or corresponding special technical features for the following reasons: the liquid cosmetic composition (Group I) and is rendered obvious by Anton et al...” *Id.* Accordingly, for the same reasons set forth above, Applicants submit that the Examiner’s election requirement is improper and should be withdrawn.

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<sup>1</sup> The Examiner requires election of a single species of monomer structure. However, as recited in independent claims 80 and 81, the cosmetic composition comprises at least one linear ethylenic block polymer, which is defined in the Specification at paragraph [0046] of the as-published application “[t]he term “block polymer” means a polymer comprising at least two different blocks and preferably at least three different blocks.” Thus, Applicants submit that more than one monomers can be elected for prosecution on the merits.

Applicants respectfully request that the full scope of the claimed invention continue to be examined in this application without the restriction or election requirement. If the Examiner chooses to maintain the election requirement, Applicants respectfully request the Examiner, if the elected species is found allowable, to continue to examine the full scope of the subject matter to the extent necessary to determine the patentability thereof, that is, extending the search to a reasonable number of the non-elected species according to M.P.E.P. § 803.02 and 35 U.S.C. § 121.

If there is any fee due in connection with the filing of this paper, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

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By: Courtney B. Meeker  
Courtney B. Meeker  
Reg. No. 56,821